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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

NGUYEN, F

ART UNIT

PAPER NUMBER

2736

DATE MAILED:

03/13/00

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/437,648

Applicant(s)

Miller et al.

Examiner

Phung Nguyen

Group Art Unit

2736



- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 1-11 and 18-20 is/are allowed.
- ☒ Claim(s) 12, 14, 15, and 17 is/are rejected.
- ☒ Claim(s) 13 and 16 is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 12, 14, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thornton [U.S. Pat. 5,793,291] in view of David [U.S. Pat. 5,859,479].

In regarding to claim 12: Thornton discloses a child alert system for automobiles which comprises all the subject matters as follow:

a. The motion detecting element 14 detects the occurrence of at least one bodily function of said individual, Figure 1, col. 1, line 47, and col. 2, line 22.

b. The controller in the form of the alarm element 18 includes a NOR gate 40 which is communicatively coupled to the sensor and which provides a signal when the sensor detects the occurrence of at least one bodily function of the individual, Figure 1, col. 3, lines 4-17.

Thornton discloses the sensor detecting motion within the parked automobile, but Thornton fails to show the sensor mounted within the trunk of a vehicle. However, David discloses an anti-confinement device preventing confinement in locked vehicle trunk which flashes taillights in distress and unlatches trunk comprising the anti-confinement device 10 is installable on

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an inside surface of a vehicle trunk 28A of a vehicle 28, Figure 1, col. 4, lines 27-30. Therefore, it would have been obvious to one of ordinary skill in the art to utilize the teaching of David into the system of Thornton for detecting the presence of an individual residing within the trunk of a vehicle which is an advantage.

In regarding to claim 14: Thornton also discloses the alarm element transmits the alarm signal, and alarm signal activates the automobile horn 64, Figure 1, col. 2, lines 2-4, and col. 4, lines 28-29.

In regarding to claim 15: Thornton fails to disclose the controller assembly opens the trunk when the signal is generated. However, David shows the first switch 18 connecting to the microchip 20. When the first switch is activated, the first electrical impulse is transmitted through the trunk latch electrical line 24 opening the electronic trunk latch 30, Figure 2, col. 4, lines 54-59. Therefore, it would have been obvious to the skilled artisan to use the technique of David into the system as disclosed by Thornton for opening the trunk when the signal is generated which provides additional safety.

In regarding to claim 17: Thornton discloses the claimed the switch which selectively causes the controller assembly to be inoperable, is met by the alarm system is energized, e.g., turned on, when the automobile engine is off, and thus also turns off accessory switch 10, Figure 1, col. 1, lines 58-59, and col. 3, lines 56-62.

Allowable Subject Matter

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3. Claims 13 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the reference in the art discloses:

The at least one bodily function comprises breathing, and the sensor comprises a carbon-dioxide sensor.

4. Claims 1-11, and 18-20 are allowed.

The following is an examiner's statement of reasons for allowance:

Many references in the art disclose a warning system for detecting presence of a child in an infant seat, a toxic gas detection with a time measurement sensor, and an emergency trunk release apparatus. Most of those references are comprising a control unit for generating an alarm signal when the occupant detection mechanism detects the presence of an occupant within the infant seat, the carbon monoxide detector detects the presence of carbon monoxide in an air sample by measuring the time required for the sensor circuitry to charge, and the lock bypass panel consists of an activation switch that is wired in parallel with a vehicle's electric trunk release such that its actuation will cause the trunk to open, such as that found in Rossi [U.S. Pat. 5,949,340], Sweetman et al. [U.S. Pat. 5,682,145], and Penny, Jr. [U.S. Pat. 6,018,292]. But no prior art reference utilizes :

A breathing detector which is disposed within the trunk, which is adapted to detect the breathing of the individual, and which generates a signal upon the detection of the breathing; and

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a controller assembly which is communicatively coupled to the breathing detector, which receives the signal, and which opens the trunk upon receipt of the signal.

The measuring an amount of carbon-dioxide within the trunk of the vehicle; and using said measured amount of carbon dioxide to determine the presence of the child within the trunk of the vehicle.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Ferro et al. (U.S. Pat. 5,445,326) disclose an emergency trunk interior release latch.
- b. Horstman (U.S. Pat. 4,742,761) discloses a method and apparatus for controlling the concentration of carbon dioxide in an aircraft cabin.
- c. Grasmann et al. (U.S. Pat. 5,598,141) disclose a method of monitoring a vehicle interior.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung Nguyen whose telephone number is (703)308-6252. The examiner can normally be reached on Monday to Friday from 8:00am to 5:30pm.

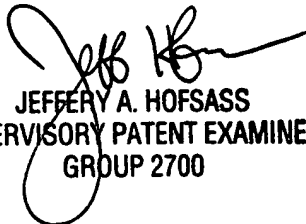
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass, can be reached on (703)305-4717. The fax phone number for this Group is (703) 305-3988.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Examiner: Phung Nguyen

Date: March 1, 2000


JEFFERY A. HOFSSASS
SUPERVISORY PATENT EXAMINER
GROUP 2700